

LAW OFFICES  
EDELMAN, COMBS, LATTURNER & GOODWIN, LLC

120 S. LaSalle  
18<sup>th</sup> Floor  
Chicago, Illinois 60603  
Phone 312/739-4200  
Fax 312/419-0379

**MEMO ENDORSED**

July 16, 2013

**VIA PRIORITY MAIL**

The Honorable Judge Karas  
United States District Court for the Southern District of New York  
300 Quarropas Street  
Chambers 533  
White Plains, New York 10601

**Re: *Mureen Jones-Bartley v. McCabe, Weisberg & Conway, P.C.*  
Case No. 7:13-cv-4829-KMK**

Dear Judge Karas,

I represent the plaintiff in the above-referenced matter, and am writing to request a pre-motion conference regarding plaintiff's anticipated motion for class certification and motion to enter and continue plaintiff's motion for class certification.

Plaintiff requests leave of court to file her motion for class certification, and memorandum in support of class certification in order to avoid having the class claims mooted by a Rule 68 Offer of Judgment or other tender, and because of the decision in *Damasco v. Clearwire Corp.*, 662 F.3d 891 (7th Cir. 2011). While there are contrary cases, the Supreme Court declined to resolve the issue in *Genesis Healthcare Corp. v. Symczyk*, 133 S. Ct. 1523 (2013), and the class needs to be protected.

Plaintiff's motion for class certification seeks to certify a class, defined as (a) all natural persons with New York addresses (b) who were sent a letter in the form represented by Exhibit A (c) addressed to the same address as that of the mortgaged property (d) on or after July 11, 2012, and (e) on or before July 31, 2013.

Plaintiff requests leave of court to file her motion and incorporated memorandum to enter and continue plaintiff's motion for class certification because defendant McCabe, Weisberg & Conway, P.C. has not yet appeared.

Respectfully submitted,

s/Tiffany N. Hardy  
Tiffany N. Hardy

Defendant is to respond to this  
Letter by August 5, 2013.

So ordered.

  
7/30/13

**CERTIFICATE OF SERVICE**

I, Tiffany N. Hardy, hereby certify that on July 16, 2013, a true and accurate copy of the foregoing document was sent to Judge Karas via Priority Mail. I further certify that the foregoing document will be sent via U.S. Mail to:

McCabe, Weisberg & Conway, P.C.  
145 Huguenot Street  
New Rochelle, NY 10801

s/Tiffany N. Hardy  
Tiffany N. Hardy

# EXHIBIT A

REDACTED

TERENCE J. MCCABE  
MARC S. WEISBERG  
EDWARD D. CONWAY  
MARGARET GARGO  
LISA J. WALLACE  
LAURA HIGGINS  
JANET J. CHARLTON  
GAYLE C. SPICAR  
JASON E. BROOKS  
ANDREW L. MARKOWITZ  
MICHAEL T. CANTRELL  
JOSEPH F. RIGA  
CAROL POULERS COBB  
DEBBIE SPINAZ  
COLIN AARON  
CHANA C. THEOLOGOU  
MARISA J. COHEN  
MARK GOLAR  
ADAM T. LINSBERTO NEH  
MELISSA A. SPINATO  
BRIANT TAMANNA  
CHRISTAL GEMENT  
ANNE SWARTZ  
EDWARD ADAMS  
MATTHEW E. PUSSELL  
ERIN M. PEZZI  
LALITA CUPRA  
ANTOINETTE M. MOFF  
KEVIN J. MULLAIL  
ALEXANDRA T. GARCIA  
CHARLES A. HOGGS  
MICHAEL T. RIGGA  
JONATHAN E. DEFRANT  
LAUREL L. LUTTA  
ADAM L. MOONSHAN  
JESSIE L. QUINN  
JEFFREY G. ENGLISH  
STACY ANN HULLEN  
ROSE Q. HANSEN  
JONATHAN WILLIAMS  
RICHARD J. SZOZ, JR.  
LUCAS M. ANDERSON  
DANIEL FANABELLE  
JULIAN D. BENNETT  
MEGAN B. STERNACK  
JOSEPH J. POLBY

LAW OFFICES  
**McCABE, WEISBERG & CONWAY, P.C.**  
SUITE 210  
145 HUGUENOT STREET  
NEW ROCHELLE, NY 10801  
(914) 636-8900  
GENERAL FAX (914) 636-8901  
MEDIATION ONLY FAX (914) 819-5505

January 28, 2013

SUITE 100  
115 E. 37TH STREET  
PHILADELPHIA, PA 19106  
(215) 596-0411  
FAX (215) 596-0411

SUITE 303  
210 HADDON AVENUE  
WESTMONT, NJ 07081  
(908) 441-7400  
FAX (908) 441-7400

SUITE 200  
7000 PINEHALL AVENUE  
DALLAS, TX 75230  
(214) 350-1100  
FAX (214) 350-1100

SUITE 201  
400 UNIVERSITY DRIVE  
FAIRFAX, VA 22030  
(703) 261-0700

SUITE 100  
10000 PARK ROAD  
STAMFORD, CT 06907  
(203) 352-0000  
FAX (203) 352-0000

SUITE 100  
DELAWARE CORPORATE CENTER I  
ONE BOUTIQUE PARKWAY  
WILMINGTON, DELAWARE 19801  
(302) 441-5522  
FAX (302) 441-5522

VIA FIRST CLASS MAIL

Mureen Jones-bartley

Loan No.: 5471  
Original Mortgagee: Mortgage Electronic Registration Systems, Inc. as nominee for GreenPoint Mortgage Funding, Inc.

Dear Mureen Jones-bartley:

As counsel to your mortgagee, we advise that in view of your failure to make your payments when due, the mortgagee has elected to and herewith elects to declare the entire principal balance of the loan due and payable.

Accordingly, demand is hereby made for the amount due calculated as follows:

Total principal due as of the date of this notice \$462,634.03

In addition, you are responsible for all costs and disbursements permitted by law. Call this office for exact figures before remitting a certified check for the amount due. In addition, you may want to contact your lender to discuss and determine if you may be eligible for possible loss mitigation options including; Forbearance, Deed In Lieu of Foreclosure, Reinstatement, Loan Modification, and Restructure.

**REDACTED**

Despite our demand for payment, if any portion of this claim is disputed, you are to notify this office within 30 days, indicating the nature of the dispute as to the amount due or any part thereof. Absent receipt of such notice we will assume the debt to be valid as stated in this letter. If you send notice of a dispute in writing, within 30 days, we will provide you with the evidence concerning the validity of the debt.

Upon your written request sent within the 30-day period, we shall provide you with the name and address of the original creditor if different from the current creditor.

**THIS LETTER IS AN ATTEMPT TO COLLECT A DEBT, AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. THIS NOTICE IS REQUIRED BY THE PROVISIONS OF THE FAIR DEBT COLLECTIONS PRACTICES ACT AND DOES NOT IMPLY THAT WE ARE ATTEMPTING TO COLLECT MONEY FROM ANYONE WHO HAS DISCHARGED THE DEBT UNDER THE BANKRUPTCY LAWS OF THE UNITED STATES.**

Very respectfully,



Megan R. Sterback

REDACTED

#### Validation of Debt Notice


Pursuant to the Fair Debt Collection Practice Act (FDCPA) (15 USC 1692), a consumer debtor is required to be sent the following notice: (1) unless the consumer, within thirty (30) days after receipt of this notice, disputes the validity of the debt or any portion thereof, the debt will be assumed to be valid by the debt collector, (2) if the consumer sends notice the debt collector in writing within the thirty-day period that the debt or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a Judgment against the consumer and copy of such verification or Judgment will be mailed to the consumer by the debt collector; and (3) upon the consumer's written request, sent by consumer within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

The law office of McCABE, WEISBERG AND CONWAY, P.C. is acting as a debt collector, pursuant to the FDCPA. THIS NOTICE AND LETTER ARE AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. The Federal Trade Commission has ruled that the FDCPA does not preclude the institution of legal action prior to the expiration of the thirty day period. However, any such legal action shall not prejudice the debtor's rights under the FDCPA including but not limited to the debtor's right (1) to send notice of a dispute as to the validity of the debt within 30 days of receipt of this notice; (2) to receive verification of the debt after sending written notice disputing the debt or any portion thereof within 30 days of receipt of this notice; (3) to request the name and address of the original creditor, if different from the current creditor, after written request to debt collect sent within 30 days of receipt of this notice.

Acceptance of funds and reinstatement of the mortgage are both subject to verification by my client. Please note that I may be instructed to proceed with foreclosure and fees, costs and/or advances by the mortgagee may be due in addition to the sum quoted above.

Please further note that any funds tendered will be subject to verification and correctness before the matter is concluded. Please feel free to contact this office upon receipt of this notice should you have any questions or concerns.

Date: January 28, 2013

  
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Megan R. Sterback, Esquire  
McCabe, Weisberg & Conway,  
145 Huguenot Street, Suite 210  
New Rochelle, New York 10801  
(914) 636-8900